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USA: Clemency urged for Texas man facing execution for crime as teenager

The Texas Board of Pardons and Paroles and state Governor Rick Perry should grant clemency to an African American man due to be executed on 18 October for a crime committed when he was only 19 years old, Amnesty International said.

Anthony Haynes, now 33, was sentenced to death in 1999 for the fatal shooting of off-duty police officer Kent Kincaid – who was white – in Houston a year earlier.

Claims of racial discrimination, inadequate legal representation and judicial and prosecutorial misconduct have marked the case.

“To obtain a death sentence for Anthony Haynes, the prosecution had to persuade the jury that he would be an ongoing threat to society, even in prison. The state’s case was weak – the defendant had no prior criminal record – but it was helped by the failure of the defence lawyers to present compelling mitigating evidence available to them,” said Rob Freer, USA researcher at Amnesty International.

“The culture of capital justice in Texas is such that executive clemency is a rarity there, but here is another case that should give even ardent death penalty supporters pause for thought about the killing the state does in their name.”

Amnesty International has written to the Texas parole board and [submitted a report on the case](#).

More than three dozen people have signed sworn statements filed in court since the trial saying that, if asked, they would have been willing to testify that the crime was shockingly out of character for a teenager they knew as non-violent and respectful.

The jury also never learned that he had taken crystal methamphetamine two days before the shooting, or what effect this had had on him. No expert testimony was presented on his history of mental health problems or on the mitigating effect of youth. The prosecutor was able to argue to the jury that “no mitigation” had been presented and that Haynes was “a dangerous predator that nothing can mitigate”.

Anthony Haynes is said to have been a model inmate and to have long expressed deep remorse for the death of Sergeant Kincaid.

On 24 September, Anthony Haynes’ lawyer filed a motion in federal court seeking a stay of execution, but otherwise his ordinary appeals have been exhausted.

In 2009, a federal appeals court ruled that Anthony Haynes should get a new trial on the claim of racial discrimination during jury selection. Only one of the 12 jurors at his original trial was African-American after the prosecutor had summarily dismissed four of six black prospective jurors.

But the Supreme Court overturned the appeal court's ruling saying to let it stand would have "important implications".

Judicial misconduct also tainted the proceedings – the judge who oversaw the jury selection process had been dismantling and cleaning two guns in full view of would-be jurors. He was later reprimanded by the State Commission on Judicial Conduct, but Anthony Haynes' death sentence was allowed to stand.

Among those appealing for clemency is Haynes' father, a retired Assistant Chief Investigator with the Houston Fire Department:

"The execution of my son by the State of Texas will have a devastating effect on my whole life....Since Anthony is my only child, one of my main purposes for living will be taken away from me by his execution. I am asking you to spare my son's life, because I know the decisions he made as a teenager are not the decisions he has made as a man. My son is a changed person who has a heart of remorse for taking Sgt. Kincaid's life."

More than 100 of the inmates currently on death row in Texas were prosecuted in Harris County, the jurisdiction where Anthony Haynes was tried.

Of the 486 people put to death in Texas since the USA resumed executions in 1977, nearly a quarter – 116 – were convicted in Harris County. If it were a separate state, the county would have the second-highest execution total in the entire USA, second only to the rest of Texas.

More than 70 of the 486 prisoners put to death in Texas were 17, 18 or 19 years old at the time of the crimes for which they were condemned. Forty were African American, 28 of whom were executed for crimes involving white victims.

Nine out of 30 executions in the USA so far this year have taken place in Texas.

Amnesty International opposes the death penalty in all circumstances.